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Hon. Edward McGehee
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# AMENDED MEMORIAL OF THE GREYTOWN SUFFERERS.

*To the honorable the members of the Congress of the United States of America:*

GENTLEMEN: We, the undersigned commissioner and solicitor, appointed by and on behalf of the residents and non-residents of Greytown or San Juan del Norte, who suffered losses and damage by the destruction from bombardment and fire of said town, by Commander George N. Hollins, of the United States sloop-of-war Cyane, on the 13th day of July, A. D. 1854, would respectfully represent:

That in consequence of the acquisition of California by the United States, and the opening thereupon of the Nicaraguan route of transit between the Atlantic and Pacific oceans, the port of San Juan del Norte, at the entrance of the SanJuan river, became the Atlantic terminus of said transit route, and a point of immediate interest and public importance to our citizens; and soon thereafter the tide of American enterprise became directed thither, and a considerable number of citizens of the United States settled at said port as merchants, or otherwise employed in business incident to, or growing out of the opening of said route, or in commerce with the interior country; while a much smaller number of individuals, principally citizens of the United States, non-residents in Nicaragua, sought and obtained the exclusive right as carriers of passengers and freight over said route, by charter to that effect from the government of Nicaragua, in Central America, and thus became a *foreign corporation*, not confined by charter to citizens

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of the United States, or recognised by the laws of the United States in any manner or form. That the said corporation of Nicaragua, known as the "Accessory Transit Company of Nicaragua," by permission and lease of a certain measure of land, obtained from the Mosquito authorities, established a depot at the port of San Juan aforesaid, and a number of agents or persons in its employ had habitually a residence, transient, according to the nature of their duties at said depot, and were regarded by virtue of such residence, and especially by their exercising the right of suffrage in the municipal elections of Greytown, as domiciled at the said town.

And your memorialists further state, that prior to the opening of said transit route, the government of Great Britain (January, 1848,) took forcible possession of said port and town of San Juan del Norte, and the territory adjacent, including the Point Arenas, (Sand Point,) as appertaining to and a part of the territory of the King of Mosquito, of whom Great Britain had heretofore and then claimed to be the protector. That the State of Nicaragua claimed the said port and territory as rightfully belonging to her—protested against the act of Great Britain in so taking possession thereof. That upon the said actual occupation by Great Britain the name of said port was changed to Greytown, and an officer of that port, under the title of Her Britanic Majesty's Consul General in Mosquito, assumed and continued from thenceforth to exercise, and did exclusively exercise, until, as next hereinafter stated, for a considerable period, all legislative and executive power over said port and territory, including Punta Arenas aforesaid; and that after the said occupation by Great Britain, and in the month of April, 1851, sundry persons, citizens of the United States and other nationalities, having become and then being owners of property, real and personal, at Greytown, or engaged in business thereat, and also in consequence of certain provisions of the convention between the United States and Great Britain, known as the "Clayton and Bulwer Treaty," and of the great increase

of population and business at Greytown, the public convenience and safety required a more stringent police and convenient local administration. Great Britain relinquished her legislative and executive power *de facto*, and as far as the same went, *de jure*, over the port and territory, including Punta Arenas aforesaid, into the hands of the householders, residents of Greytown, who thereupon assembled, and in public convention agreed upon a basis of government, and subsequently a constitution, and laws and regulations in accordance therewith, for the government and regulation of the "city and port of Greytown," were adopted, and went into full force and effect on the 15th of April, 1851, which continued in force until the 29th of March, 1852, at which time the number of citizens of the United States residing at Greytown having increased so greatly as to give them a preponderating influence, the last mentioned form of government was remodeled more in harmony with the institutions of the United States, and a new constitution adopted, establishing the limits to said city as follows:

"Commencing at the mouth of Indian river, thence running up through the channel of said river fifteen miles; thence in a direct line, so as to include the head of Machuca Rapids; thence down the San Juan river to its junction with the Colorado river: thence down the Colorado river to the Carribean sea," including Punta Arenas.

And also by said constitution a democratic government was established, founded on popular consent alone; the authority of the common law and the decisions of the Supreme Courts of the United States were substituted for the system heretofore in force, and full provisions were made for the due administration of justice, civil and criminal, within said boundaries.

The last mentioned government went immediately into operation, and was a continuation of the previous municipal organization, for the better protection of life, liberty, and property, as well of citizens of the United States and others *in transitu*, for whose special protection a large extent of the

San Juan river was included within the city limits, as of all residents and others within and throughout its boundaries aforesaid; that it maintained and enforced good order and respect for law and the rights of persons and property, by sound regulations and an effective police; and discharged its duties faithfully and well, and was effectual for every purpose of good government there necessary. That the residents of Greytown, by whom it was controled and administered, were a peaceful and thrifty community, engaged in lawful and laudable pursuits, and as such entitled to respect and protection; that the most influential portion of the community living under it, by whom it was formed, consisted of citizens of the United States; a large proportion of its property and interest belonged to our citizens there or elsewhere, and generally its inhabitants, laws, and usages were those of the United States; that it was organized from necessity—not in usurpation of the rights of any State or existing political body—but in default and for want of protection from any such State or body, for citizens of the United States and others *in transitu*, or residing within said boundaries; and that it received the recognition of the governments of Great Britain, France, Costa Rica, Nicaragua, the Hanseatic cities, and also the consent and approval of the United States, both by her naval and commercial agents there located, who were duly accredited to the local authorities; but said government was provisional merely, and a government *de facto*, pending negotiations for the settlement of the Central American question, and as such was expressly declared, and so acknowledged by the governments of the United States and Great Britain, between which such negotiations were pending.

And your memoralists further allege, that the authority of the said government of Greytown extended to and embraced the point of sand, called by the "Nicaraguan Transit Company," Punta Arenas," that as guardian of the port, jurisdiction of said point was necessary for the public purposes of police pilotage, guarantine, for administering justice, preserving the

public peace, and punishing wrong doers; and that the jurisdiction of the *de facto* government of Greytown for the time being, over the waters of the said port to the sea, was not a modern extension of authority, but had for many years existed and was conceeded and submitted to by all occupants thereof, and among them the agents and employees of the "accessary Transit Company of Nicaragua," who repeatedly voted at the municipal elections and availed themselves of its local courts, until the interests of the community conflicted with the interest of said Company, by urging it to limit its possessions and operations within the leased space asigned them, and urging compliance with the terms of said lease, and to deport themselves in an orderly and peaceable manner, whereupon they began to withdraw themselves from the authority of said government, and openly resisted the authority which they had assisted to inaugurate; thereupon the said government sought by legal means to enforce the law, and maintain the authority of its courts, and executive against the unlawful and wicked designs of the agents and servants of said company, and would with little difficulty have succeeded in so doing, but for the unfortunate and unwarrantable interference of the Hon. Solon Borland, a retired minister of the Government of the United States.

Your memorialists respectfully present, that at the instance of one Joseph L. White, an officer and proprietor of the "Accessory Transit Company of Nicaragua," the Government of the United States, through its commercial agent, Joseph W. Fabins, did, on the 11th day of July, A. D. 1854, demand of the community of Greytown, without having examined into the charges preferred against said community, by the said Joseph L. White, payment of twenty-four thousand dollars, for lossess alleged to have been sustained by said company in consequence of the removal of a certain building; and also for losses said to have been sustained in consequence of an alleged theft of provisions, perpetrated by two of the company's employees, and charged to have been transferred to the custody

of the towns-people; and for having arrested two of its employees, upon a charge of having disturbed the public peace; and an apology was likewise demanded for an alleged insult offered the United States Government in the person of the Hon. Solon Borland, and "satisfactory assurance be given" by said community for "future good conduct;" which demand not being satisfied, for the reason hereinafter assigned, Commander George N. Hollins did, on the 13th day of July, A. D. 1854, proceeded with the United States forces under his command to bombard said city, and on the evening of the same day completed its destruction by fire, without having encountered opposition from said community.

Now your memorialists most respectfully represent to your honorable body, that they can establish beyond doubt that the community of Greytown never at any time perpetrated any act of aggression against the interest of said company, or in any manner countenanced any illegal or malicious act or deed against the interest of said company, or any individual member thereof. Nor did they ever at any time, or in any manner offer any indignity or offence against the Government of the United States. The insult and rudeness offered the Hon. Solon Borland, when on his way to the United States, was in a great measure the result of his own improper course and intemperate threats and open and armed opposition to the due course of justice, in resisting by force of arms a process for the arrest of an employee of said company, (not a citizen of the United States,) for wilful murder within the jurisdiction and judicial limits of said municipal government, and whose cause the Honorable Minister espoused to the great mortification of his fellow-countrymen.

Your memorialists do most solemnly and sincerely avow, that they can, and will, prove to the satisfaction of every honest and intelligent mind, that Joseph L. White and his minions conspired and did deceive the United States Government into the destruction of Greytown, for the sole purpose of getting possession of the local government of the port and territory

under the ficticious "Mosquito land Grant," and used the importance of the "Accessory Transit Company of Nicaragua" as a cloak for his own wicked and illegal designs; and that the testimony furnished the United States Government, and upon which it proceeded to destroy over a million of dollars' worth of property, belonging mostly to citizens of the United States residing at Greytown and elsewhere, and rendering destitute of shelter and subsistence over one thousand inoffensive and unoffending men, women and children, during the most inclement weather in the tropics, whereby several have died, and all have suffered, and are yet suffering and existing under the executive brand of "lawless adventurers and pirates,"—are the fruits of Joseph L. White's malicious conspiracy.

And your memorialists most respectfully controvert the justness of the conclusions of a late executive message to the 33d Congress, at its second session, in relation to the government and community of Greytown, as they were prior to June, 1854, in justification of said act of violence and destruction of that date, effected by the authority of the executive government of the United States, and submits, that said conclusions were assumed upon insufficient evidence—manufactured by designing and evil disposed persons, intending to deceive and mislead; and to the contrary of said conclusions, your petitioners allege and respectfully submit and insist, and are prepared to show, that the citizens of the United States and others residing at Greytown, engaged in commerce or otherwise, were not "adventurers," except as having engaged themselves in a new and laudable enterprise, consistant and in harmony with our institutions and character as a nation, and never at any time pretended to act as "subjects of the ficticious sovereign of the Mosquito Indians;" on the contrary, their *leaning* was Nicaragua-wise to such an extent that the honorable Daniel Webster, when Secretary of State, admonished them to desist, and pay implicit obedience to the Mosquito Protectorate authorities. Nor did they repudiate the control of any power whatever, nor "assume to adopt a distinct politi-

cal organization," nor "aspire to be an independent sovereign State," except as hereinbefore stated, with the direct consent of the governments of Great Britain and the United States. That the population of Greytown had become, and during the years 1852, 1853, and 1854, constituted in character a staple and respectable community, and would have so continued, but for the aforesaid acts of interference and destruction thereof, by violence on the 13th of July of the last mentioned year. That the *de facto* government of Greytown never at any time "asserted unfounded claims to civil jurisdiction over Punta Arenas;" it merely asserted the authority which had been exercised over said point for more than twenty years, and by the Mosquito Protectorate since January, 1848, which last mentioned government was superceded by the local municipal government, both by the consent of the government and the governed. Nor did the local authorities ever deny the agents or employees of the Transit Company, or any other person or government, the benefit of their police, courts or executives. Nor did they take part in any mob, or manifest any intention to arrest the Hon. Solon Borland, but the contrary of such charges is religiously true.

Your memorialists, in consideration of the premises, with a full knowledge of the facts, respectfully insist and declare, that the bombardment and destruction of Greytown was an act violent, unjust and unnecessary; that it was effected in contravention of the constitution and laws of the United States. That it was not an act of lawful war, or essential to the ends of justice, to vindicate national honor, assert the national dignity, or obtain the redress of greviance, or justifiable by way of reprisal or retaliation, or for the prevention of, or as satisfaction or redress for injuries committed or threatened; that it was, in fact, a naked wrong for which reparation should be made.

Your memorialists must here beg leave to complain of the conduct of the late Executive of the United States, who after having been grossly deceived by the malicious conspiracy and misrepresentations of Joseph L. White, into the destruction of

Greytown and consequent ruin of hundreds of defenceless and unoffending persons, many of whom were his own countrymen, women and children rendered houseless and dependent on the charity of a distant, foreign government for subsistence; who, for the purpose of justifying so harsh an act, sent Joseph W. Fabens, the instrument of said White, to the scene of destruction and misery, to gather testimony against that unfortunate and suffering community. Which was done in a secret and clandestine manner, and from men who were in the immediate employ of said White, excepting a few negroes, who were bribed to testify against the whites and officials of the place, by holding out as an inducement for so doing, they would be indemnified for their losses. And the tesmony so obtained was made sufficient grounds for the late Executive, in his message to the 32d Congress, to brand the suffering community as a band of "adventurers and pirates." Now wo do not wish to say that the Executive was acquainted with the character and objects of the persons who testified, or the influence that surrounded them, or the inducement offered them; but of this we do complain: That he should punish and destroy on *ex parte* testimony, and examine the case afterwards, if examination it can be called. And that he should have selected for a commissioner of evidence, Joseph W. Fabens, who is implicated in the conspiracy that deceived the government and led it to rashness.

Therefore, the undersigned memorialists, citizens of the United States, do respectfully pray your honorable body, the enactment of a resolution authorizing the Executive to appoint a commission with power to proceed to Greytown, and there investigate the charges upon which that city was destroyed, and to ascertain the losses and damages sustained by the claimants whom your petitioners have the honor to represent, with a view of making such reparation and indemnity as may appear just and proper upon the result of the investigation prayed for.

Of the community of Greytown, many of them are citizens of the United States, in good standing, who cling to their native

government with all the affection of offspring towards their parents, and confidently rely that the Congress of their country will grant them an opportunity of being heard in their own defence, and to vindicate, by a thorough investigation, not only their own rights, but that of the nation.

Your memorialists, most respectfully, beg leave to subscribe themselves

Your obedient servants.

SAMUEL S. WOOD, *Comm'r.*
W. P. KIRKLAND, *Solicitor.*

Washington, Feb. 1st, 1860.

*To the honorable the members of the Congress of the United States.*

GENTLEMEN: The matter of the bombardment and destruction of Greytown, in Central America, in July, 1854, by Commander George N. Hollins, of the United States navy, will probably be submitted to your consideration during the present session; the undersigned takes the liberty of calling your attention to the following significant facts and conclusions, viz:

If the Mosquito flag at Greytown constitute piracy, the piracy exists with the so-called Mosquito Sovereign and his British ally, who took possession of that territory in January, 1848, and hoisted it over the ports of said territory, prior to the formation of the municipal government of Greytown, and the community of Greytown is in no manner responsible for it, it being established and maintained by a superior power claiming and exercising sovereignity.

It was the duty of the Mosquito government and its protector to establish and maintain law and authority for the protection of the lives, liberty and property of the inhabitants thereof, whilst exercising sovereignty, in place of the Nicaraguan authority, which said powers had suspended in consequence of their seizure and possession of said port and territory. And when so established, it became the duty of the inhabitants thereof, whether native or foreign, to respect and obey said laws and authority.

That whilst in the possession of said territory, they had the authority for conferring the power upon the inhabitants to form and conduct a municipal government, and when so delegated, the acts and authority of said municipal government were vested with all legal authority to the extent of the authority conferred by the superior sovereign power.

The granting of a charter, in 1851, by the government of Nicaragua to the "Accessory Transit Company of Nicaragua," and the privileges therein contained, were inoperative and void so far as

appertained to the ports, waters, and territory of Mosquito, whilst said territory and waters were withheld from Nicaragua by a superior power.

The application of the agents of said corporation to the Mosquito authorities, and the obtaining therefrom a lease of certain land for the depot of said corporation, are evidence of the want of possession of said land by Nicaragua, and its control being under the jurisdiction of a foreign power, and the inoperative portion of said incorporated privileges within said territory.

The agents, employees, and property located within said territory were amenable to the laws and authorities thereof.

The grant and charter of the "Accessory Transit Company of Nicaragua" constituted it a foreign corporation in relation to other powers, and beyond the jurisdiction, control and protection of any power in whose limits they were not domiciled, except so far as the same may be recognized by the "Clayton and Bulwer Treaty," authorizing the respective governments of the United States and Great Britain to protect the interests of their citizens and subjects.

That the privileges granted the "Atlantic and Pacific Canal Company" by the State of Nicaragua, were not the same as those granted the "Acessory Transit Company of Nicaragua," as claimed by Joseph L. White and agents; nor do the stipulations of said treaty embrace said company to the same extent as the "Canal Company."

The pleading of Joseph L. White, one of the proprietors and officials of said "Accessory Transit Company," in the courts of the city of New York, that it was a foreign corporation, and not amenable to the laws of that state or those of the United States, is evidence that said company so regarded their position.

The jurisdiction of the municipal government of Greytown were those previously existing, and acquired of the existing government in the exercise of sovereignty, and exceed to by the *express vote* of the inhabitants therein, *including* the inhabitants of Point Arenas, the *agents employees and servants of said "Accessory Transit Company.*

The exercise of authority over the port of Greytown, "Punta Arenas" and the San Juan river, were those previously exercised by the government superceded by the municipal government, and could

only have been objected to by the governments of Costa Rica and Nicaragua, who were claimants to sovereignty.

The violation of a contract by the agents of the "Accessary Transit Company of Nicaragua," and their open and armed resistance to the authorities, were offences highly reprehensible, and were subject to the laws of said municipal government; as was also the murder of Antonio Palidino, within the judicial limits of said municipal government, by an employee of said company, and his attempted arrested in the Port of Greytown, was alike imperative and regular.

The interference of the Hon. Solon Borland, either as minister or citizen, and his armed resistance to the due course of law, was irregular and unwarrantable. The murderer Smith, being an unnaturalized Portuguese, was not entitled to the protection of the United States Government.

The charges of Joseph L. White made upon the testimony of Joseph N. Scott, are false in every particular, and have been so acknowledged by Scott, in the presence of Capt. F. Chatard and Dr. Kellogg, of the United States sloop of war Saratoga, and Capt. Erskine, of her Britannic Majesty's navy, and can be proven by several witnesses formerly in the employ of said company, and is likewise transparent from the affidavit of said Scott.

Had "provisions," "flour," and "meal" been stolen as alleged, and conveyed by two of the employees of said company in a yawl-boat to the custody of the towns-people, the demand of $8,000, as made by Joseph W. Fabens, (United States Commercial Agent,) of the said community of Greytown, is exorbitant in the extreme; and to hold an entire community responsible for the acts of two or three persons, is perfectly preposterous.

The demand of $8,000 as made by said Commercial Agent for the removal of a certain building, by authority of law, from lands where it had been erected without right or authority, when the entire damages sustained by said removal as certified to by Capt. Banker, the company's agent, who rebuilt the house, to be *not over* $700, is equally unjust and exorbitant; as also the demand of a like sum for having arrested and placed under bonds to keep the public peace, two employees of said company.

The grave charge made by the immediate predecessor of the present Chief Magistrate of the United States; that the inhabitants of

Greytown were a band of "lawless adventurers and pirates," deserves some comment at our hands.

Since that charge has been disproven by the evidence cited, we are impelled by respect to the eminent station of him who uttered it, to impute the charge rather to the impressions made by our enemies than to a wilful purpose of doing us an injustice.

Is it, we respectfully ask, customary for "lawless adventurers and pirates" to adopt a democratic form of government, with constitutional guarantees, elective franchise, stringent police and port regulations, legislative, judicial and executive administration of law, for the protection of life, liberty and property?

Is it customary for "lawless adventurers and pirates" to permit millions of unguarded treasure, valuable merchandise and mail matter to pass through their territory at stated periods of fourteen days interval for years, without molestation?

Is it reasonable or possible, that the Governments of the United States and Great Britain should have dispatched Commodore Foxhall Parker, on behalf of the first named power, and Admiral McQuade, on the part of Great Britain, in May or June, 1852, to protect a community of "lawless adventurers and pirates?"

Is it possible that the Governments of the United States, Great Britain, France, Bremen and Nicaragua, have for years accredited consuls and commercial agents to a band of "lawless adventurers and pirates?"

Is it possible that the government of the United States offered a community of "lawless adventurers and pirates" opportunity of escaping punishment upon the payment of the sum of $24,000?

Is it possible that even "lawless adventurers and pirates" should be denied the right of examination and trial, and that women and children should be made to suffer disease, famine and privation upon *ex parte* testimony alone?

The attempt of the late Secretary of State to throw the responsibility of indemnification upon the Mosquito sovereign would be to recognize the existence of a sovereign which the government of the United States has firmly and persistently denied. The attempt to charge upon the community of Greytown, the offence of "repudiating all authority from any power whatever," and of "aspiring to be a distinct and independent political organization," is contradicted

by the honorable Secretary's first position, and the Executive's charges of "lawless adventurers and pirates." And both positions fail for want of facts to establish the culpability of said community.

The allusion made by the honorable Secretary, as to the opportunity offered the community to escape with their property, is valueless and powerless with all persons acquainted with the locality of Greytown. There is not a road of egress by land from said town, it being surrounded by either swamps or water. There was neither time nor facilities allowed them to do so; there being but twenty-four hours allowed them. And as it required an entire day with the assistance of the marines of the Cyane, and a little river steamer and crew, to remove the effects of the United States commercial agent, to a place safety, how long would it have required to remove the persons, merchandize and effects of one thousand persons to a place of safety?

The offer of the river steamer was a *farce*, and was not made until the morning of the bombardment, when too late to be available; and when made, was only to Messrs. Wiederman & Beschor, and Messrs. A. De Barruwell & Co., whose purposes she could not have served in one week, as the first mentioned firm had two buildings well stocked with merchandize, and the last named firm had two stores and four large warehouses compactly filled with merchandize.

The praise given the "Accessory Transit Company" for having tendered the services of their *little* steamer, and having brought to New York three lady sufferers, free of charge, is unmerited. For in the case of Mrs Benjamin Mooney, the only one of the three sufferers from whose friends money could have been obtained, a bill for her passage was presented and paid to the parties who had caused her to be deprived of all the property she possessed.

The late Executive or the honorable Secretary of State, likewise, represented that a state of war existed. If so, by whom and when declared?

The Constitution of the United States vests the war-making power in Congress. Did Congress declare war against Greytown? Was the territory of the United States invaded? If so, by whom, when and where was the treaty of peace concluded and ratified?

The fact of the British government having declined to demand indemnity for the losses sustained by its subjects, is construed by a *few* into a justification of the course of the United States. But the truth is, the aggressive policy of that government prevents her from

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making the demand, for if made, she would make herself liable to indemnify the citizens of almost every country on the face of the globe for similar offences, including those of the United States. It was also policy to respect the honorable Secretary's acknowledgement of the existence and responsibility of the Mosquito sovereign, whose purse-strings are in her own hands. The fact of such abandonment or neglect to demand indemnity for her subjects, does not in the least legalize or justify the course of the executive government of the United States towards the community of Greytown. The enormity of the offence is as great now as when committed, and is now the subject of diplomatic correspondence between the Bremen minister and the present Secretary of State.

The testimony obtained by Mr. Fabens, subsequent to the destruction of Greytown, (for the purpose of justifying his own acts,) cannot be regarded as a justification of the course of the Executive of the United States—said evidence not being then in existence, could not have influenced his course.

The testimony taken by said Fabens was obtained in a clandestine and secret manner. No persons being examined except such as were known to be either under the influence of Scott or White, or were ignorant of the circumstances and facts connected with the destruction of Greytown, or who could not read the testimony when written, excepting a few negroes who were induced to testify against the white officials of the place, and there rests the responsibility of the misdeeds charged, and they the attestants would thus be exonerated and entitled to indemnity.

Mr. Fabens has since acknowledged before Commissioner Betts, of the United States district court, that he had been duped by said Joseph L. White, in the course pursued.

The affair should be investigated, and made appear how the sealed orders of the Secretary of the U. S. Navy, to Com'r George N. Hollins, became known to Joseph L. White, and made the subject of his letter to Joseph W. Fabens, under date of June 16th, 1854, several days previous to the sailing of said commander for the port of Greytown. If upon such investigation it can be made to appear that the community of Greytown was culpable, and the executive government of the United States did not exceed usual and legal bounds, then its conduct will be justified, which at present is not the case, either at home or abroad. If on the other hand, the investigation establishes the innocence of said community of Greytown, then justice and humanity demands immediate reparation to be made.

W. P. KIRKLAND, *Solicitor.*

WASHINGTON, *February*, 1860.

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